IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

OP.No. 13024 of 2003(A)

PETITIONER:

P.H.MUSTHAFA 19/658 (23) MYTHRI NAGAR,
WEST YAKARA, NOORANI P.O., PALAKKAD.

BY ADV. SRI.N.K.KARNIS

RESPONDENTS:
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1. THE ASSISTANT EXCISE COMMISSIONER,
PALAKKAD.

2. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE, THIRUVANANTHAPURAM

3. STATE OF KERALA, REPRESENTED BY THE
COMMISSIONER AND SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM

4. THE REGIONAL DIRECTOR,
HOTEL AND RESTAURANT APPROVAL AND CLASSIFICATION
COMMITTEE, 154, ANA SALAI, CHENNAI 600002

5. T.M.ABDUL KHADER, MANAGING PARTNER,
M/S. HOTEL RAJADHANI, (A REGISTERED PARTNERSHIP
FIRM) SHORNUR ROAD, PALAKKAD.

R5 BY ADV. SRI.T.A.SHAJI
R1 TO R3 BY GOVERNMENT PLEADER SMT. SMITHA
R4 BY ADV. SRI.JOHN VARGHESE, SCGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 22124 OF 2003 AND I.A. NO. 637 OF 2003 IN OP 13024 OF 2003

DISMISSED

2.2.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE RESOLUTION OF A SPECIAL MEETING OF THE EXECUTIVE COMMITTEE OF THE PARENT TEACHER ASSOCIATION OF B.E.M. HIGHER SECONDARY SCHOOL DATED 27.7.2000

EXT.P2 TRUE COPY OF THE STAR CLASSICIATION ORDER ISSUED BY THE 4TH RESPONDENT TO THE 5TH RESPONDENT DATED 27.3.2000

EXT.P3 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 20.3.2003

EXT.P4 TRUE COPY OF THE COMMUNICATION ISSUED BY THE FIRST RESPONDENT TO THE 5TH RESPONDENT DATED 24.3.2003

EXT.P5 TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA IN OP NO. 10110 OF 2003 DATED 26.3.2003

EXT.P6 TRUE COPY OF THE APPLICATION FOR RECLASSIFICATION SUBMITTED BY THE 5TH RESPONDENT BEFORE THE 4TH RESPONDENT DATED 3.1.2003

EXT.P7 TRUE COPY OF THE DIRECTION ISSUED BY GOVT. OF INDIA, DEPARTMENT OF TOURISM (HRACC) NO. 12-HRACC(1)/87 DATED 11.10.2000

FIFTH RESPONDENT'S EXHIBITS:

EXT.R5(a) TRUE COPY OF THE JUDGMENT DATED 2.2.2001 IN W.A.NO. 469/2001 OF THE DIVISION BENCH OF THIS HON'BLE COURT.

EXT.R5(b) TRUE COPY OF THE JUDGMENT DATED 27.9.2002 IN W.A.NO. 1692/2002 OF THE DIVISION BENCH OF THIS HON'BLE COURT.

EXT.R5(c) TRUE COPY OF THE JUDGMENT DATED 30.5.2002 IN OP NO. 24892 OF 2001 OF THE DIVISION BENCH OF THIS HON'BLE COURT.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 13024 OF 2003

Dated this the 2nd day of February, 2007

JUDGMENT

Petitioner is challenging FL-3 licence being granted to the fifth respondent on the ground that bar hotel is within the prohibited distance from the school. However, in the counter affidavit, excise authorities have stated that school is beyond the prohibited distance from the bar hotel and licence is granted to the fifth respondent. In the circumstances, O.P. is closed.

(C.N.RAMACHANDRAN NAIR)
Judge